

Montana Department of Natural Resources and Conservation  
Water Resources Division  
Water Rights Bureau

**ENVIRONMENTAL ASSESSMENT**  
**For Routine Actions with Limited Environmental Impact**

**Part I. Proposed Action Description**

1. Applicant/Contact name and address: Ouzel Reach Ranch  
305 S. 4<sup>th</sup> St. E, Suite 300  
Missoula, MT 59802
2. Type of action: Application to Change a Water Right 76M 30050291
3. Water source name: Ninemile Creek, tributary to the Clark Fork
4. Location affected by project: N2 Section 34, T16N, R23W, Missoula County
5. Narrative summary of the proposed project, purpose, action to be taken, and benefits:

Ouzel Reach Ranch submitted an Application to Change a Water Right to DNRC requesting authorization to permanently change the point of diversion for 0.5 Cubic Feet per Second (CFS) of stated water right from NWNWSW Section 27, T16N, R23W to NENENW Section 34, T16N, R23W, Missoula County. The Applicant also seeks authorization to add a storage reservoir approximately 50 feet from the bank of Ninemile Creek and to add stock as a purpose. The Applicant proposes to reduce the place of use from 32 acres of irrigation to 29.5 acres of irrigation to account for one fill and evaporation from the storage reservoir and perennial support of 50 Animal Units (AU). The water will continue to be used for irrigation purposes over a 14 acre place of use and the Applicant adds the purpose of stockwater for 50 Animal Units (AU). The Applicant proposes to divert water directly from Ninemile Creek through a 3-inch intake pipe connected to a 5.5 hp gas powered pump located at least 10 feet from the edge of the creek. Water will be conveyed through the irrigation mainline to supply one Nelson Big Gun Sprinkler and will deliver 2.8 AF annually to the storage reservoir.

The DNRC shall issue a change authorization if an Applicant proves the criteria in 85-2-402 MCA are met.

6. Agencies consulted during preparation of the Environmental Assessment:

Montana Natural Heritage Program	Species of Concern
Montana Department of Fish, Wildlife and Parks	2005 Dewatered Stream List
Montana Department of Environmental Quality	303(d) list of impaired streams
Montana Department of Environmental Quality	305(b) list of impaired streams

## **Part II. Environmental Review**

### **1. Environmental Impact Checklist:**

<h2><b>PHYSICAL ENVIRONMENT</b></h2>
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### **WATER QUANTITY, QUALITY AND DISTRIBUTION**

**Water quantity** - *Assess whether the source of supply is identified as a chronically or periodically dewatered stream by DFWP. Assess whether the proposed use will worsen the already dewatered condition.*

Three miles of Ninemile Creek are considered periodically dewatered on the 2005 Montana Department of Fish, Wildlife and Parks Dewatering Concern Areas. This is not a new appropriation and no additional impacts to water quantity will be seen in Ninemile Creek from changing the point of diversion.

*Determination:* No impact.

**Water quality** - *Assess whether the stream is listed as water quality impaired or threatened by DEQ, and whether the proposed project will affect water quality.*

Ninemile Creek, tributary to the Clark Fork River in Missoula County, is on DEQ's 2010 303(d) and 305(b) lists as water quality impaired. The creek is listed as fully supporting recreation, agriculture, and industry uses and partially supporting aquatic life and cold water fisheries. Probable causes of impairment include low flow alterations and sediment/siltation resulting from flow alterations from water diversions, impacts from abandoned mine lands (inactive), and streambank modification/stabilization.

The Applicant is one of multiple users of Ninemile Creek water for agricultural purposes. The water right is used in conjunction with water right 76M 210614 from Cedar Creek, a tributary to Ninemile Creek, which is currently operating under a temporary change in place of use to restore 23 acres of riparian and wetland vegetation. This water right has been used on the Applicant's property since April 1, 1902. The proposed change in point of diversion will not result in an increase in the amount of water diverted or acreage irrigated from Ninemile Creek. The purpose of the proposed change in point of diversion is to add a place of storage to support 50 AU and deliver water through sprinkler irrigation to the historical place of use.

Although the Applicant's and their predecessor's historic water use has contributed to water quality impairment, the proposed change in point of diversion will not further contribute to water quality impairment in Ninemile Creek.

*Determination:* No impact.

**Groundwater** - *Assess if the proposed project impacts ground water quality or supply. If this is a groundwater appropriation, assess if it could impact adjacent surface water flows.*

*Determination:* N/A – the proposed point of diversion change is for an existing surface water right.

**DIVERSION WORKS** - *Assess whether the means of diversion, construction and operation of the appropriation works of the proposed project will impact any of the following: channel impacts, flow modifications, barriers, riparian areas, dams, well construction.*

The Applicant plans to reactivate an existing electrical line to power a 10 hp centrifugal pump with a 3-phase electric motor. The pump will pull water directly from Ninemile Creek through a 6-inch suction pipe with a self-cleaning screen and be diverted to a 6-inch mainline with a T-junction to allow water supply to the reservoir. The reservoir capacity is 7.6 AF, of which 5.5 AF is supplied by groundwater and 2.8 AF from Ninemile Creek. Total hours that the sprinkler system is used will be monitored with monthly reporting requirements and flow rates will be limited by the 225 GPM capacity pump. The Applicant plans to limit pumping time to 9 hours a day for a period of 130 days so that total diverted volume, including 2.8 AF to the reservoir, does not exceed 51.3 AF.

*Determination:* No impact

#### **UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES**

**Endangered and threatened species** - *Assess whether the proposed project will impact any threatened or endangered fish, wildlife, plants or aquatic species or any “species of special concern,” or create a barrier to the migration or movement of fish or wildlife. For groundwater, assess whether the proposed project, including impacts on adjacent surface flows, would impact any threatened or endangered species or “species of special concern.”*

The Montana Natural Heritage Program was contacted to determine if there are any threatened or endangered fish, wildlife, plants, or aquatic species or any “species of special concern” that could be impacted by the proposed project.

In the vicinity of Section 34, Township 16 North, Range 23 West, Missoula County, the Montana Natural Heritage Program identified the following animal species of concern: Flammulated Owl, Veery, Cassin’s Finch, Westslope Cutthroat Trout, Fisher, Wolverine, Canada Lynx, and Western Pearlshell. Also identified was the vascular plant, Yerba Buena.

According to the Montana Department of Fish, Wildlife, and Parks stream survey of Ninemile Creek, Westslope Cutthroat Trout abundance is rare. Cutthroat Trout populations in Ninemile should not be impacted by the change in point of diversion as the Applicant will not be allowed to divert any additional water above what the historic practice has been. As the new point of diversion is below the historic point of diversion, the segment between the historic and proposed points of diversion will have increased flows. The diversion does not create a barrier to fish migration within the stream.

The new point of diversion is directly from Ninemile Creek at a point in the creek adjacent to the ranch’s property boundary. There will be no loss of habitat for any of the abovementioned species as a result of the proposed change in point of diversion.

The area mapped containing Yerba Buena (a vascular plant in the Mint family) is not on the Applicant's property. It is not known if Yerba Buena exists on the Applicant's property.

*Determination:* No significant impact.

**Wetlands** - *Consult and assess whether the apparent wetland is a functional wetland (according to COE definitions), and whether the wetland resource would be impacted.*

This application was filed with the DNRC in conjunction with a temporary change in place of use application to allow the Applicant to use an existing water right to supplementally irrigate native wetland plants, planted under the direction of the Environmental Protection Agency. The Applicant was ordered to restore a wetland area previously disturbed by unauthorized pond construction activities. The purpose of the water right will remain irrigation.

*Determination:* N/A: This project does not involve any wetlands.

**Ponds** - *For ponds, consult and assess whether existing wildlife, waterfowl, or fisheries resources would be impacted.*

Applicant has a groundwater permit for the pond which allows for the stocking of fish. There is no outlet from the pond connecting the groundwater and 2.8 AF of water pumped from Ninemile Creek back to the creek, so whirling disease cannot be transmitted and there is no opportunity for native fish to access the pond. Waterfowl and wildlife could potentially utilize the pond as a resource.

*Determination:* No impact.

**GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE** - *Assess whether there will be degradation of soil quality, alteration of soil stability, or moisture content. Assess whether the soils are heavy in salts that could cause saline seep.*

Soils in the 32 acre historic place of use have been irrigated with this water right since 1902 and will not be degraded or altered by the change in point of diversion. They are not heavy in salts which can cause saline seep.

*Determination:* No impact.

**VEGETATION COVER, QUANTITY AND QUALITY/NOXIOUS WEEDS** - *Assess impacts to existing vegetative cover. Assess whether the proposed project would result in the establishment or spread of noxious weeds.*

Historically, water was conveyed to the historic place of use through a headgate to flood irrigation which allows noxious weed seeds an opportunity to spread. Through the new point of diversion, the Applicant will be applying water through a series of irrigation mainlines and sprinkler heads that are less likely to convey noxious weed seeds onto the fields.

*Determination:* No impact.

**AIR QUALITY** - *Assess whether there will be a deterioration of air quality or adverse effects on vegetation due to increased air pollutants.*

Applicant will be using a gas powered 10 hp centrifugal pump for 9-hour periods over 130 days during the irrigation season. Although emissions from the burning of fossil fuels will be present while the pump is in use, significant impacts to air quality will not occur as a result.

*Determination:* No significant impact.

**HISTORICAL AND ARCHEOLOGICAL SITES** - *Assess whether there will be degradation of unique archeological or historical sites in the vicinity of the proposed project if it is on State or Federal Lands. If it is not on State or Federal Lands simply state NA-project not located on State or Federal Lands.*

NA – project not located on State or Federal Lands.

*Determination:* No impact.

**DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY** - *Assess any other impacts on environmental resources of land, water and energy not already addressed.*

None identified.

*Determination:* No impact.

## **HUMAN ENVIRONMENT**

**LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS** - *Assess whether the proposed project is inconsistent with any locally adopted environmental plans and goals.*

There are no locally adopted environmental plans or goals.

*Determination:* No impact.

**ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES** - *Assess whether the proposed project will impact access to or the quality of recreational and wilderness activities.*

The proposed point of diversion is located adjacent to private property with limited public recreation opportunities. Development of the new point of diversion will not limit the public's access to Ninemile Creek.

*Determination:* No impact.

**HUMAN HEALTH** - *Assess whether the proposed project impacts on human health.*

No impacts to human health were identified.

*Determination:* No impact.

**PRIVATE PROPERTY** - *Assess whether there are any government regulatory impacts on private property rights.*

*Yes\_\_\_ No\_XX\_ If yes, analyze any alternatives considered that could reduce, minimize, or eliminate the regulation of private property rights.*

*Determination:* No impact.

**OTHER HUMAN ENVIRONMENTAL ISSUES** - *For routine actions of limited environmental impact, the following may be addressed in a checklist fashion.*

*Impacts on:*

- (a) Cultural uniqueness and diversity? None identified.
- (b) Local and state tax base and tax revenues? None identified.
- (c) Existing land uses? None identified.
- (d) Quantity and distribution of employment? None identified.
- (e) Distribution and density of population and housing? None identified.
- (f) Demands for government services? None identified.
- (g) Industrial and commercial activity? None identified.
- (h) Utilities? None identified.
- (i) Transportation? None identified.
- (j) Safety? None identified.
- (k) Other appropriate social and economic circumstances? None identified.

**2. *Secondary and cumulative impacts on the physical environment and human population:***

Secondary Impacts None identified.

Cumulative Impacts None identified.

**3. *Describe any mitigation/stipulation measures:*** None identified.

4. ***Description and analysis of reasonable alternatives to the proposed action, including the no action alternative, if an alternative is reasonably available and prudent to consider:*** No alternative identified.

***PART III. Conclusion***

1. ***Preferred Alternative*** N/A
2. ***Comments and Responses*** N/A
3. ***Finding:***  
*Yes*\_\_\_ *No* *XX* *Based on the significance criteria evaluated in this EA, is an EIS required?*

*If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action:* AN EA IS THE APPROPRIATE LEVEL OF ANALYSIS FOR THIS PROPOSED ACTION BECAUSE NO SIGNIFICANT IMPACTS HAVE BEEN IDENTIFIED AS A RESULT OF THE PROPOSED ACTION.

*Name of person(s) responsible for preparation of EA:*

*Name:* Amy Groen

*Title:* Water Resource Specialist

*Date:* 07/06/2011